



MIKE PENCE, *Governor*  
JAMAL L. SMITH, *Executive Director*

ICRC NO.: EMse13061242

[REDACTED],  
Complainant,

v.

J & J AND ASSOCIATES, INC.,  
Respondent.

### NOTICE OF FINDING

The Deputy Director of the Indiana Civil Rights Commission ("Commission"), pursuant to statutory authority and procedural regulations, hereby issues the following findings with respect to the above-referenced case. Probable cause exists to believe that an unlawful discriminatory practice occurred in this instance. 910 IAC 1-3-2(b).

On June 12, 2013, [REDACTED] ("Complainant") filed a Complaint with the Commission against J & J and Associates, Inc. ("Respondent") alleging discrimination on the basis of sex in violation of Title [REDACTED] the Indiana Civil Rights Law (Ind. Code § 22-9, *et seq.*) Accordingly, the Commission has jurisdiction over the parties and the subject matter.

An investigation has been completed. Both parties have been given the opportunity to submit evidence. Based upon a full review of the relevant files and records and the final investigative report, the Deputy Director now finds the following:

The issue presented to the Commission is whether Complainant was terminated because of her sex. In order to prevail, Complainant must show that: (1) she is a member of a protected class; (2) she suffered an adverse employment action; (3) she was meeting Respondent's legitimate business expectations; and (4) similarly-situated male employees were treated more favorably under similar circumstances.

It is evident that Complainant falls within a protected class by virtue of her gender and that she suffered an adverse action when she was terminated on June 3, 2013. Further, evidence shows that Complainant was meeting Respondent's legitimate business expectations at the time of her termination and that similarly-situated male employees were treated more favorably under similar circumstances.



By way of background, Respondent hired Complainant in May 2013 as a dealer. At all times relevant to the Complaint, Respondent hired employees to sell Kirby vacuum cleaners and conduct in-home cleaning demonstrations. During the course of her employment with Respondent, Complainant alleges that she was one of the only female dealers and was treated less favorably than her male counterparts. Specifically, Complainant alleges that Respondent berated her in front of potential clients and made her wait in excess of an hour to be picked up from an in-home demonstration. Witness testimony also corroborates that Respondent failed to pick Complainant up from an in-home demonstration conducted at the witness' home for nearly an hour. Ultimately, a male representative from Respondent terminated Complainant for staying at a customer's home longer than Respondent preferred.

While Respondent was given an opportunity to rebut Complainant's assertions, it failed to avail itself of the ability to do so. Nonetheless, Complainant has provided sufficient evidence to show that Respondent failed to pick her up in a timely manner from a customer's home and that male counterparts were treated more favorably under similar circumstances. Further, while Respondent terminated Complainant for staying at a customer's home longer than preferred, Complainant asserts that she was completed with the demonstration hours prior to Respondent picking her up. As there is sufficient evidence to establish a nexus between Complainant's protected class status and her termination and Respondent failed to refute the assertions, probable cause exists to believe that a discriminatory practice occurred as alleged.

A public hearing is necessary to determine whether a violation of the Indiana Civil Rights Law occurred as alleged herein. Ind. Code § 22-9-1-18, 910 IAC 1-3-5. The parties may agree to have these claims heard in the circuit or superior court in the county in which the alleged discriminatory act occurred. However, both parties must agree to such an election and notify the Commission, or the Commission's Administrative Law Judge will hear this matter. Ind. Code § 22-9-1-16, 910 IAC 1-3-6.

October 30, 2014

Date

Akia A. Haynes

Akia A. Haynes, Esq.

Deputy Director

Indiana Civil Rights Commission